

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

2:11-CR-00452-PMP-CWH

Plaintiff,

vs.

ORDER

THERESA MARCIANTI,

Defendant.

This case is currently scheduled to commence trial on Tuesday, August 20, 2013. On July 29, 2013, the Court conducted a pretrial conference with the Parties and explained the Court's trial schedule. At that time there were two older criminal cases pending trial, one for re-trial on remand from the Ninth Circuit Court of Appeals with an in-custody defendant, Darryl Walizer, and also a re-trial of a civil case filed in 2009. At the Pretrial Conference the Parties addressed the speedy trial issues involved in continuing the trial for a lengthy period of five months. The Court directed the Parties to confer on whether a trial date of January 29, 2014, was viable. Recent filings by the Parties show it is not. Moreover, the status of the Court's trial calendar in late August and early September has changed, or will shortly. Specifically, one of the previously conflicting criminal cases has continued on stipulation. The other criminal case pending trial has not, but in a filing in this case made by the Government (Doc. #92), the Government has provided information that its internal discussions with colleagues in the office of the United States Attorney suggest that the Walizer case will also be subject to a stipulation for continuance of trial. If so, the

1 Court requests that Mr. Pugh and Ms. Griswold encourage their colleagues to submit the
2 anticipated stipulation with Court so it can be considered. Additionally, the Court is
3 advised that counsel in the civil case pending trial are in serious settlement discussions and
4 hope to finalize a settlement before calendar call now scheduled for August 14, 2013.
5 Hence, some of the barriers to the trial of the Marchianti case have, or may, be removed.
6 As it is clear this case must be tried, and given the requirements of the Speedy Trial Act, it
7 seems clear trial must commence in the near future, and well prior to January 28, 2014.

8 Now before the Court are two motions filed by Defendant Marchianti, to wit:
9 Defendant Marchiati's Motion for Reconsideration of Admission of Trial Testimony from
10 Expert Ronald Bloecker (Doc. #89), and Defendant's Motion to Continue Trial (Doc. #90).
11 The Government has filed Oppositions to both (Doc. ## 91 & 92).

12 The Court will consider argument on Defendant's Motion for Reconsideration
13 (Doc. #89) at calendar call currently scheduled for Wednesday, August 14, 2013, at 9:00
14 a.m.

15 The Court will also consider argument on Defendant's Motion to Continue Trial
16 (Doc. #90) at calendar call, but advises counsel that at this point it does not appear that
17 there are grounds cognizable under the Speedy Trial Act to warrant a lengthy continuance.
18 In anticipation of trial, the Court therefore shares with counsel the trial schedule it intends
19 to invoke should Defendant's Motion to Continue Trial (Doc. #90) be denied: Trial will
20 commence with jury selection on Monday, September 16, 2013 at 1:00 p.m., and will
21 thereafter proceed daily through October 4, 2013. If additional days are needed for trial
22 thereafter, the Court will address scheduling further as permitted by the Court's calendar.

23 The Court also will address with counsel at calendar call the application of the
24 Speedy Trial Act to this case. Of course the Court is not the "keeper of the speedy trial
25 clock" in any case. That is the responsibility of the Parties. However, the Court wants to
26 ensure that the tentative trial schedule outlined above complies with the requirements of the

1 Speedy Trial Act. Therefore, counsel for the Parties shall forthwith meet and confer
2 regarding the history of this case since Defendant Marchianti's arraignment in this case on
3 December 28, 2011, and accounting for the various continuances on stipulation of the
4 Parties, and on motions granted by the Court, **shall file with this Court on or before**
5 **Monday, August 12, 2013, a Joint Statement** regarding their calculation of the specific
6 date upon which trial must commence in accord with the Speedy Trial Act, taking into
7 account the above referenced motions to continue and for reconsideration.

8 **IT IS SO ORDERED.**

9
10 DATED: August 6, 2013.

11 

12 PHILIP M. PRO
13 United States District Judge
14
15
16
17
18
19
20
21
22
23
24
25
26